

DOCKET FILE COPY ORIGINAL

EX PARTE OR LATE FILED

SWERDLIN
WHITE
HUBER

RECEIVED

SEP 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 18, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Notice of Ex parte Communication;
Broadband PCS Installment Payment Restructuring
WT Docket 97-82

Dear Mr. Caton:

This notification amends an earlier ex parte of the same day in the above-referenced proceeding. Yesterday, on behalf of CIBC Wood Gundy Securities Corporation, I met with Commissioner James Quello and his Legal Adviser, Marsha MacBride, to discuss issues in this proceeding and, in particular, matters raised in the attached letters.

Specifically, I discussed the importance to act expeditiously as communicated in both letters. In addition, I discussed the recommendation of Congressmen W.J. "Billy" Tauzin and Edward J. Markey to provide a menu of options including disaggregation and a "full price buy-out." This latter proposal would permit current licensees to purchase as many of their existing licenses as they could with cash up front for the net present value of the "net bid" prices.

In accordance with Section 1.1206 of the Commission's rules, a facsimile of the original and two copies of this filing are being submitted to you today. Please direct any questions concerning this matter to me at (973) 984-9227.

Sincerely,



Daniel A. Huber, Esq.
Director

Attachments

cc: Commissioner Quello
Marsha MacBride

14 Ridgedale Avenue
Suite 103
Cedar Knolls, NJ 07927

Tel 973 984-9227
Fax 973 984-7581
800 557-9373
<http://www.swerdlin-white-huber.com>

Securities offered through
Lockwood Financial Services,
Inc. Member NASD/SIPC.

No. of Copies made
List ABOVE

022

CONCLUSIONS

[illegible]

THE NEW YORK PUBLIC LIBRARY

The Honorable Reed Hundt

Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Hurd:

I am writing with regard to the Commission's proceeding on the "C-Block" Personal Communications Service (PCS) licenses. I am distressed that nearly three months after the Wireless Bureau's public meeting on this subject, and three months after the official record in this proceeding has closed, the Commission has not yet resolved the issues before it.

I find it particularly troubling that although the common theme at the Bureau's public meeting was that the Commission should address this problem quickly, no resolution has been adopted to date. Furthermore, there is a growing likelihood that four new Commissioners may be seated before this proceeding has been completed. This result would certainly lead to further delay. The Commission should do what is necessary to avoid that outcome.

I recognize that the issues facing the Commission are difficult to resolve, but the statutory objectives are clear. I urge you to focus on the goals that Congress articulated when it authorized competitive bidding. Section 309(f)(3) requires the Commission to promote the "rapid deployment of new technologies, products and services for the benefit of the public," and to do so without administrative delays. The Commission's paramount consideration at this point should be to resolve the C-Bidlock proceeding in a manner that will expedite delivery of service to the public, and increase the level of competition in the PCS marketplace.

Unfortunately, press reports indicate that the Commission may be considering alternatives that would fail to achieve these two goals by causing additional delays, both administrative and judicial. In my view, the simple summary approach that the press indicates may enjoy the support of a majority of Commissioners would be counterproductive, at least insofar as the general public is concerned. Giving licensees a choice between walking away from investments already made and facilities already constructed, or taking a chance in bankruptcy court, is tantamount to giving them no choice whatsoever.

**U.S. House of Representatives
Committee on Commerce
Room 2125, Rayburn House Office Building
Washington, DC 20515-6115**

September 16, 1997

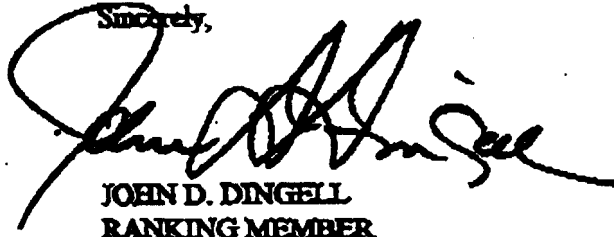
Although it is not my purpose to endorse any specific plan, I urge the Commission to act expeditiously and end the administrative process that is delaying delivery of service to the public. I also urge the Commission to adopt a plan that provides meaningful alternatives for licensees that avoids the likelihood of bankruptcy litigation and the additional delays that would ensue. Any plan that does not provide satisfactory incentives to keep licensees out of bankruptcy court would certainly undermine the important policy objectives of the statute.

With the statutory objectives in mind, I respectfully request a response to the following questions no later than Friday, September 19, 1997.

1. How does the Commission intend to minimize the threat of bankruptcy litigation?
2. Does the U.S. government have a perfected security interest in the C-Block licenses? If not, would the licenses be subject to attachment by creditors other than the U.S. government?
3. Do you believe it is likely that other creditors would seek to attach the licenses in support of their claims?
4. If the U.S. government attempted to reclaim and reacquire the C-Block licenses after bankruptcy litigation is initiated, what would be the likely response of other creditors?
5. What would be the effect of bankruptcy litigation on achieving the objectives of the statute, e.g., rapid delivery of wireless services to the public?
6. How will the various alternatives under consideration by the Commission be structured so that the creditors of C-Block licensees (other than the U.S. government) would support opting for the Commission's proposal rather than bankruptcy protection?

Thank you for your prompt attention to this request. I ask that a copy of this letter be made part of the Commission's record in this proceeding.

Sincerely,



JOHN D. DINGELL
RANKING MEMBER

cc: Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness

Congress of the United States
House of Representatives
Washington, DC 20515

September 16, 1997

The Honorable Reed E. Hundt
Chairman, Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Chairman:

We are writing to express our views on the Commission's efforts to resolve issues relating to the payment terms and schedule for the so-called "C-Block" licensees of broadband Personal Communications Services (PCS). We are eager for the Commission to proceed quickly to a solution that best serves the interests of American consumers and that is fair to industry participants.

We believe that there are a number of important public policy issues at stake that should drive whatever solution or solutions the Commission ultimately adopts. The spectrum auction provisions of the 1993 spectrum auction law embodied a number of important policy goals including: 1) the rapid deployment of new technologies to the marketplace; 2) the promotion of competition in wireless services; and 3) the democratization of licenses for these technologies among a wide variety of applicants. It was to fulfill this latter goal that Congress compelled the Commission to ensure that auction procedures availed small businesses, including women- and minority-owned firms, the opportunity to participate in the auction.

The subsequent auctions conducted by the Commission for PCS provided many small businesses with their first real opportunity to participate in the wireless revolution. We believe that the Commission must seek a solution at this time for "C-Block" licensees that is consistent with Congress' goal that these C-Block licenses be utilized so as to create greater competition in the wireless marketplace and bring new services and lower prices to the American public as quickly as possible.

In addition, the Commission must also remember its statutory mandate to award licenses in a fair and efficient manner. With respect to this last point, it is unacceptable to us for the Commission to proceed on a course that results in large numbers of bankruptcies with bankruptcy judges consequently resolving licensing issues on an ad hoc, case-by-case basis. Aside from the administrative and licensing inefficiencies created by numerous bankruptcies, this result would also violate the goal of bringing service to the public as quickly as possible.

The Honorable Reed E. Hundt
September 16, 1997
Page 2

Recognizing that the C-block auction achieved the sort of diversity of ownership and participation that Congress intended, any solution that you and your fellow Commissioners agree upon should include a range or menu of options from which companies may choose. We understand that there are a number of proposals currently being discussed at this time.


One option would be to offer an "amnesty" to licensees and allow them to return all of their licenses, forfeit their deposit, and then reauction the licenses to qualified bidders. Some companies may indeed choose this route but for many it may not be a viable option. Another proposal would permit licensees to return all of their licenses, participate in a reauction, and use a substantial part of their downpayment to bid again in that auction.


An alternative that we support would permit licensees to return up to 15 MHz of any license to the FCC in exchange for relief from a proportionate amount of the debt associated with such licenses. This option would reduce debt loads while ensuring the rapid development of competitive service. It may be particularly attractive to licensees that operate in smaller markets, where the existing 30 MHz per license may be more than the amount necessary to provide a competitively viable commercial service. This alternative is also consistent with the FCC's current rules, which permit disaggregation of spectrum.

A final option is a "full price buy-out" proposal. We strongly urge you to consider including this alternative in any menu the Commission is considering for the C-block issue. Under this proposal, current licensees could purchase at "full price" as many of their existing licenses as they desire with cash up front, for the net present value of the "net bid" prices for such licenses, which could be paid for with the licensee's deposit money (plus any new money that the licensee might immediately muster). Those licenses that a licensee is unable to purchase outright would revert back to the Commission for reauction. Licensees who choose this option would be prohibited from significant participation in the reauction. This proposal has the benefit of allowing licensees to proceed with their build-outs immediately, thereby bringing service to the public as quickly as possible, while also providing a meaningful opportunity for all interested parties to participate in an auction for the bulk of the licenses.

We believe these proposals meet the public policy goals set out in the authorizing statute as well as the Commission's public interest mandate. Again, it is imperative that this matter be resolved immediately. We look forward to hearing your views on this matter as soon as possible.

Sincerely,


W. J. "Billy" Tauzin, Chairman
House Subcommittee on Telecommunications,
Trade, and Consumer Protection


Edward J. Markey, Ranking Democrat
House Subcommittee on Telecommunications,
Trade, and Consumer Protection